

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on January 29, 2003 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Arlene Becker, Vice Chairman (D)
Rep. Mark Noennig, Vice Chairman (R)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Ray Hawk (R)
Rep. Daniel S. Hurwitz (R)
Rep. Penny Morgan (R)
Rep. Holly Raser (D)
Rep. Don Roberts (R)
Rep. Ron Stoker (R)
Rep. Jonathan Windy Boy (D)

Members Excused: Rep. Larry Jent (D)

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
CJ Johnson, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 681, HB 698, 2/19/03
Executive Action: None

HEARING ON HB 180**Sponsor:** REP. EDITH J. CLARK, HD 88, Sweetgrass**Opening Statement by Sponsor:**

REP. CLARK said it clearly states in the title of the bill, that this allocates liquor license fees, beer and wine tax revenue to the Department of Public Health and Human Services (DPHHS), and then statutorily appropriates a certain percentage of revenue for distribution to state-approved, private and public chemical dependency programs for grants for the treatment of persons with chemical dependency and co-occurring serious mental illness.

{Tape: 1; Side: A; Approx. Time Counter: 1.3 - 4.8}

Proponents' Testimony:

Mona Sumner, Chief Operations Officer, Rimrock Foundation, said they are Montana's oldest and largest addiction treatment center. This bill will allow their industry to receive about the same amount of funding they had in the good or better times when others will likely receive less. This bill is designed to do that. It is designed to assure that they will continue to receive about \$1 million of the alcohol excise tax based on a formula of geography and population through each county in Montana. This money was earmarked in the 1979 Legislative Session. It was done with the concurrence of the beverage industry because they believed, as did Rimrock, it was time that the product that causes about 13.5 percent of Montanans to develop alcoholism be provided some access to treatment. Surely, it is not unreasonable to ask that by statute, they be assured that \$1 million of the alcohol excise dollars continues to remain available to all the communities to treat the ravages of this substance. This is the right thing to do.

EXHIBIT (huh19a01)

{Tape: 1; Side: A; Approx. Time Counter: 4.8 - 8.8}

Mike Ruppert, CEO, Boyd Andrew Community Services, said they provide chemical dependency treatment and outpatient services to Lewis & Clark, Broadwater and Jefferson Counties. He stated that this was not a bill asking for new money, it is a bill to protect the money they have received since 1979. This money needs protection because there are other elements in government that are coming after the money. This money can be spent any way the county commissioners, the local people, and the providers see appropriate. There are many people seeking treatment at a lower

rate because they make too much money or because they are the wrong kind of person.

{Tape: 1; Side: A; Approx. Time Counter: 8.8 - 14}

Joan Cassidy, Regional Development Director, Western Montana Addiction Services, Missoula, North Granite, Powell, Mineral and Ravalli Counties, said the \$134,000 they now receive in earmarked money is their flexible money. That money is to treat those populations that most often are not able to be treated. The money received is also used for leverage money for several of the grants to provide prevention and treatment services within the community. It is very critical that they continue to receive this kind of money.

{Tape: 1; Side: A; Approx. Time Counter: 14 - 14.9}

Mark Clark, Executive Director, Alcohol and Drug Services of Central Montana, Secretary Treasurer, Montana Addiction Services Providers, said the offices in Judith Basin and Stanford were able to be opened one day a week for service. Treatment for these clients is now more feasible, because they are not required to travel as far for services. They have a system that is working especially for the smaller counties.

{Tape: 1; Side: A; Approx. Time Counter: 14.9 - 17.5}

Judy Kolar, Executive Director, Gateway Recovery Center, Great Falls, said they use the dollars very specifically with the direction of their County Commissioners to fund 1.5 FTE within their staff. Services are provided to the county inmates at the Cascade County jail in order to divert them into treatment programs. They also provide no charge services for adolescents in many cases. One of the stipulations on these dollars is that they are not able to deny services to anyone based on the inability to pay.

{Tape: 1; Side: A; Approx. Time Counter: 17.5 - 22.3}

Howard Gipey, Flathead County Commissioner, said he supported this legislation.

{Tape: 1; Side: A; Approx. Time Counter: 22.3 - 22.9}

Mona Jamison, Attorney at Law, Boyd Andrew Community Services, said this is an appropriations bill for health and human services. These programs have never had general fund dollars. This bill makes it certain they will never have general fund dollars. The statute prevents the counties, in their county

plan, to have duplication of services. This program has maintained accountability on the expenditure of the funds, brings it down to the local level. Local control makes sure the services are being provided by a capable provider and there are not duplicated funds being spent on administration to assist chemical dependency.

{Tape: 1; Side: A; Approx. Time Counter: 22.9 - 26.6}

Christie Blazer, Rimrock Foundation, Billings, said this is not a new appropriation. There has always been a statutory appropriation for these programs. This bill changes the method of statutory appropriations to be consistent with other statutory appropriations. The continuance of earmarking funds is important. HB 88 concerns earmarking. This particular earmarked fund fits the criteria set forth in that bill. The program provides direct benefits to those who pay the dedicated tax. Those that consume alcohol end up with the alcohol treatment. The tax is commensurate with the cost of the program. They have lived within their means. There is an appropriate collection in the allocation formula.

{Tape: 1; Side: A; Approx. Time Counter: 26.6 - 28}

Don Hargrove, Montana Addictive Services Providers, said they supported this legislation. Responsible society has obligations to take care of certain things that people cannot do for themselves. The mechanism that is set up to provide a little bit of stability through local control is an investment in the future. Unique perhaps in the social services business, these programs have the potential of working themselves out of a job. It is not theoretical, it is fact that most of the money the Legislature spends is on these programs. Most of the programs are related to chemical dependency and addictive problems.

{Tape: 1; Side: A; Approx. Time Counter: 28.4 - Tape: 1, Side: B, 2.5}

Bob Ross, Director, South Central Montana Mental Health Center, Billings, said they provide mental health benefits to twelve counties. There is also a substance abuse program. He then said the original base funding was depleted. That, in turn, created a financial chaos. There were 39 program cuts. The substance abuse part of their organization is the only part that is stable. He also said he was here on behalf of Bill Kennedy, Chairman of the Yellowstone County Commissioners, who would like to be on record as supporting this bill.

{Tape: 1; Side: B; Approx. Time Counter: 2.5 - 6}

Opponents Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MORGAN asked Ms. Sumner about the money spent on drugs. **Ms. Sumner** said it was used for chemical dependency which includes alcohol and drugs together.

{Tape: 1; Side: B; Approx. Time Counter: 6 - 6.2}

REP. ROBERTS asked Ms. Sumner how many people were treated during the year through their program and if the program treats people through crises. **Ms. Sumner** said their program was a 24-hour, 7-day-a-week crisis facility. Anyone can be served in that unit at any time. They will be treating about 2,600 people through their facility this year.

{Tape: 1; Side: B; Approx. Time Counter: 6.2 - 6.9}

REP. STOKER asked Mr. Gregg Petesch, Legislative Services Division, about individual providers. **Mr. Petesch** said the fiscal note indicates the Executive Budget intended to use these funds for Medicaid match for the mental health program as was authorized in the August Special Session. That authority went away at the end of this current fiscal year. Any ability to do that terminates on June 30, 2003. In order to use the funds for the purpose indicated in the fiscal note, the Executive Branch would have needed to bring forth legislation to allow that to occur. Under the existing law that is in effect now and will remain so, the money can be used for Medicaid matching funds. It is just limited to being used for Medicaid matching for alcoholism and chemical dependency treatment. On Line 27, Page 2 at least \$1 million went to these programs. The status of the funds as of June 30th would be that the second version of 53-24-108 would be in effect, without any of the additions or strikeouts. The \$1 million would go to treatment of persons with co-occurring disorders. There were two different termination dates. The funds left over after the department use would then flow through the counties in the way they always did. The \$1 million on a percentage basis, as opposed to a flat dollar basis will allocate that money to them.

REP. NOENNIG asked Mr. Petesch about the Governor's budget. The budget was proposed to be used some of this money for Medicaid match for mental health. That is not in permissible use for these funds after July 1st. The Executive Budget was not based on the statute that would be in effect when the budget became effective.

{Tape: 1; Side: B; Approx. Time Counter: 6.9 - 16.4}

REP. MORGAN said if the Legislature passed this bill, is the state no long eligible for the Medicaid match. **Mr. Petesch** said under both current law and the law that will still be in effect if this bill is passed, the money that is allocated to the department can be used for Medicaid match, chemical dependency and alcohol treatment. The budget office and the Department will be needed if they are to be funding the mental health program at the levels the Executive Budget proposed using this money which they had no authority to do.

{Tape: 1; Side: B; Approx. Time Counter: 16.4 - 17.8}

Closing By Sponsor:

The sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 17.8 - 18}

Rep. Jent returned.

HEARING ON HB 90

Sponsor: **REP. EDITH J. CLARK, HD 88, Sweetgrass**

Opening Statement by Sponsor:

REP. CLARK said she was a member of the Child and Family Services Advisory Committee. This is an act authorizing the Department of Public Health and Human Services to provide voluntary protective services to parents of children alleged to have been abused or neglected. It defines the term "protective services" and provides for dismissal of abuse and neglect petitions upon successful reunification of a child with the child's parents. The purpose of this legislation is to give the DPHHS statutory authority to provide voluntary protective services to children and families when a child has been abused or neglected or is at risk of same. Adding the provision of voluntary protective services to statute would clearly authorize the agency to provide these services.

{Tape: 1; Side: B; Approx. Time Counter: 18 - 20.4}

Proponents' Testimony:

Shirley Brown, Administrator, Department of Public Health & Human Services, explained the changes in the bill and provided written testimony.

EXHIBIT (huh19a02)

{Tape: 1; Side: B; Approx. Time Counter: 20.4 - 24}

Beth Satre, Public Policy Specialist, Montana Coalition Against Domestic and Sexual Violence, said their coalition represents 43 programs that provide direct services to victims to domestic and sexual violence all across the state. They provide professional services to the people who seek them as well as to advocate the policy and systems change that will help victims and eradicate sexual and domestic violence. Domestic violence presents some unique dangers and challenges for victims and the victims are not only the battered parent but also the children in the relationships. It is hard to plan for safety of both of the nonbattering parent and children when oftentimes leaving the relationship constitutes one of the greatest dangers of those relationships. This bill codifies the fact that the child and family service workers are already using and provide a certain amount of flexibility that really can help in situations of domestic violence. It will help workers cooperate with families who are in danger.

{Tape: 1; Side: B; Approx. Time Counter: 24 - Tape: 2; Side: A; Approx Time Counter: 11}

Greg Daily, Social Worker, Lewis & Clark City/County Health Department, said when he coordinated the Family/Child Health Program, they worked with many clients that are not involved with the Department for child protection. They also work with dozens of families who are associated with the Department. They are in strong support of this bill especially for the voluntary participation. In the long run, it is the best practice to work this way with the families.

{Tape: 2; Side: A; Approx. Time Counter: 11 - 13}

Sylvia Danforth, Director, DEEP, Miles City, said their agency has contracted with the Department of Child and Family Services to provide in-home services to families who have children are at risk for abuse and neglect. This bill clearly authorizes what voluntary treatments services are. It provides for a family the enter a cooperative manner, a treatment plan which not only is going is provide for their best interest but provide a safety plan for their child. This bill allows for a timely process for families in terms of intervention that is important for their children. After reunification, the Department can get out of their lives or the Department can pursue a permanency plan.

{Tape: 2; Side: A; Approx. Time Counter: 13 - 16.4}

Opponents' Testimony:

John W. Larsen, District Judge, 4th Judicial District, Missoula and Mineral Counties, said there are two different bills in this bill. The last section is completely different and separate from the voluntary issues the Department raises. The last section deals with those cases that are in front of the judge dictating. The old child welfare system, before the 1970s had horror stories of multiple placements, children never seeing their parents, never getting out of the child welfare system. The courts and other parties are just as interested as the Department for successful outcomes.

EXHIBIT (huh19a03)

{Tape: 2; Side: A; Approx. Time Counter: 16.4 - 25.6}

Questions from Committee Members and Responses:

REP. FACEY asked Ms. Brown who is looking out for the rights of the child. **Ms. Brown** said issues would identify some issues in the family, there are programs available that can help you and a referral would be made to those programs. **REP. FACEY** then said the ramifications are not as dismal as Judge Larson states. **Judge Larson** then said if voluntary services are used, this bill is not necessary.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 4}

REP. ROBERTS asked Judge Larson if families would be better off to hire an attorney. **Judge Larson** affirmed this. He also stated there was no accountability on either side of the bill. **REP. ROBERTS** asked if the county attorneys want out of this. **Judge Larson** said the county attorneys are reimbursed by the State for work they do. Many of these county attorneys are excellent and they like doing the work too. But, they should be getting what the federal law allows them.

{Tape: 2; Side: B; Approx. Time Counter: 4 - 12}

REP. MORGAN told Ms. Brown that she had dealt with their department and it was not a pleasant experience. It was finally determined she had a vengeful husband going through a divorce. The child has no representation and either does the parent. **Ms. Brown** said things are now better since what **REP. MORGAN** had experienced thirteen years ago. If the Department receives an anonymous report, unless we have definite evidence within 48 hours, the case is closed. A social worker talks with the child

and there needs to be evidence from the child to indicate there really was a case there. Under prior law, they were required to investigate every report they received. Now, the social workers assess the report, the level of risk to the child, and then assess the kind of response they make.

{Tape: 2; Side: B; Approx. Time Counter: 12 - 15}

REP. STOKER asked Mr. Daily about constructing a voluntary plan. **Mr. Daily** said abuse is reported and it is then investigated. There are programs both parents can attend. **REP. STOKER** then questioned Mr. Daily about a time span to put any plans together. **Mr. Daily** said the process too approximately one week with the family.

{Tape: 2; Side: B; Approx. Time Counter: 12 - 24}

REP. JENT asked Judge Larson about abuse and neglect proceedings. **Judge Larson** said it does provide for agreements to made as to whether the child does need care and the treatment plan is considered.

{Tape: 2; Side: B; Approx. Time Counter: 24 - 24.8}

REP. HURWITZ asked Judge Larson if it was reasonable to ask why this bill was before this Committee. **Judge Larson** said he had wondered also. It involves the role of the judiciary because it sets up a whole nonjudicial proceeding that somehow, without any documentation, study, information from any jurisdiction, it is found to be recommended for this State.

{Tape: 2; Side: B; Approx. Time Counter: 24.8 - 25.7}

CHAIRMAN THOMAS commented about the confusion of the testimony, and asked if there is a way to coordinate this business. **REP. NOENNIG** said often times there is a conflict of programs.

Closing by Sponsor:

The Sponsor closed.

HEARING ON HB 150

Sponsor: REP. BOB LAWSON, HD 80, Whitefish

Opening Statement by Sponsor:

REP. LAWSON said this bill exempted providers of companionship services or respite care for the aged or infirm from wage and hour requirements to conform to federal law. It exempted the provision of companionship services or respite care to the aged or infirm from minimum wage and overtime, unemployment insurance, and workers' compensation insurance if the person providing the service is employed directly by the family or a legal guardian. He then explained the changes in the bill and provided proposed amendments.

EXHIBIT (huh19a04)

{Tape: 3; Side: A; Approx. Time Counter: 1 - 7.2}

Proponents' Testimony:

Chris Volinkaty, Children's DD Services and Executive Director, Child Development Center, presented written testimony.

EXHIBIT (huh19a05)

{Tape: 3; Side: A; Approx. Time Counter: 7.2 - 15}

Jerry Driscoll, Montana State AFL-CIO, said with the amendment he supports the bill. This bill saves the State money. It provides parents a break.

{Tape: 3; Side: A; Approx. Time Counter: 15 - 17}

Louella Halmans, Baker resident, said she supports this bill. She told about her daughter who is afflicted with autism. They were offered respite care.

{Tape: 3; Side: A; Approx. Time Counter: 17 - 18}

Joan Kimble, Yellowstone County Counsel on Aging, Billings, said half of the requests for respite care come from older adults or from family members of older adults. They urge your support of this bill.

{Tape: 3; Side: A; Approx. Time Counter: 18 - 21.5}

Don Judge, Teamsters 190, said they support this bill with the amendments. It allows the Department of Labor to be able review complaints that could exist and there would be something in law to establish the legitimate concerns.

{Tape: 3; Side: A; Approx. Time Counter: 21.5 - 24.2}

Susan Smith-Havener, Billings resident, said there had been care for her ill mother from respite when she was caring for her injured husband. She strongly supports this bill.

{Tape: 3; Side: A; Approx. Time Counter: 24.2 - 26}

Joan Gromin, Development Administrator, STEP, said she had cared for her ailing mother, and respite was able to help her. STEP serves 400 families a year.

{Tape: 3; Side: B; Approx. Time Counter: 1.5 - 3}

Val Piercy, Florence resident, said she supported this bill. She also stated she was the parent of an adult child with severe disabilities, and her husband is also handicapped. She said her life had improved because of respite. The experience of respite must be positive and fun for everyone involved.

{Tape: 3; Side: B; Approx. Time Counter: 3 - 4}

Sylvia Danforth, Director, DEEP, said they have provided a variety of in-home services to children and families in ten southeastern counties. Respite is first and foremost of preventative strategy. It strengthens families, protects family health and well being, allows individuals to remain in their homes. Respite reduces the abuse and neglect and keeps family members safe and stable.

{Tape: 3; Side: B; Approx. Time Counter: 4 - 9.8}

Wally Melcher, speaking personally, said his family does not use respite very often, but when they do they want to choose the best person possible.

{Tape: 3; Side: B; Approx. Time Counter: 9.8 - 13.1}

Janie McCall, Administrator, Montana Children's Initiative and Montana Association of Independent Disabilities Services, said they are in total support of this bill.

{Tape: 3; Side: B; Approx. Time Counter: 13.1 - 16.2}

Opponents' Testimony: None

Informational Testimony:

John Andrews, Department of Labor & Industry, said he was available for questions from the Committee.

Jannis Conselyea, Bureau Chief, Program Support, Developmental Disabilities Program, said she was available for questions from the Committee.

Questions from Committee Members and Responses:

REP. STOKER wanted to know where the money comes from. **Ms. Conselyea** responded stating it depends on where the person is receiving their respite care. Each family has been allocated \$400 a year for respite. Over the years, a family can receive more money if the need is more intense. The money goes to the contractor for the purpose of respite. **REP. STOKER** asked if there were multiple departments involved in this care. He was informed that there are a number of programs such as, foster care programs, mental health programs, all of which are funded. There is need for care for the aging but there are not funds supplied.

{Tape: 3; Side: B; Approx. Time Counter: 16.2 - 20.3}

REP. THOMAS asked where the pass-through funds originate. **Janet Conselyea** said a pass-through fund goes to the provider first, then to the family member who then pays the respite provider. The problem with Medicare and Medicaid is that the provider should be paid directly. There is a program called 1115 which deals with experimental programs such as foster care, etc.

{Tape: 3; Side: B; Approx. Time Counter: 20.3 - 21.8}

Closing by Sponsor:

The Sponsor closed.

ADJOURNMENT

Adjournment: 6 P.M.

REP. BILL THOMAS, Chairman

CJ JOHNSON, Secretary

BT/CJ

EXHIBIT (huh19aad)